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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,481	06/15/2007	David M. Roush	2400.1140002	4205
48219 7590 03/24/2011 PATENT ADMINISTRATOR FMC CORPORATION 1735 MARKET STREET PHILADELPHIA, PA 19103			EXAMINER NORTHINGTON DAVIS, ZINNA	
			ART UNIT	PAPER NUMBER
			1625	
			NOTIFICATION DATE	DELIVERY MODE
			03/24/2011 ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

barbara.cherry@fmc.com

### Office Action Summary

**Application No.**

10/580,481

**Applicant(s)**

ROUSH ET AL.

**Examiner**

Zinna Northington Davis

**Art Unit**

1625

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, and 7 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5, 6 and 8-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

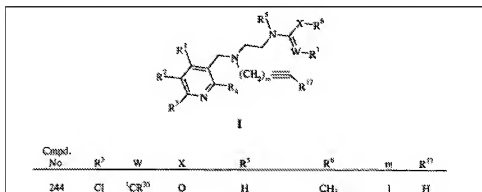
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-845)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/02/07/12/17/07
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-13 are pending.
2. In the response filed February 9, 2011, Applicants have elected Group I, claims 1-11, without traverse. Applicants also identify the compound of Example 2 which is compound 244 as the preferred species. The compound is depicted as follows:



3. Based upon the election of the Example 2, the election of species and restriction requirement are withdrawn.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1, 4, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - A. At claim 1, 4, 7, it is suggested that the phrase "m is an integer selected from 1 or 2" should be amended to read as "m is an integer selected from 1 or 2".
  - B. At claim 1, 4, 7, it is suggested that the phrase "and agriculturally acceptable salts" should be amended to read as "or an agriculturally acceptable salt".

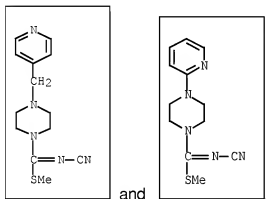
6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Meyer et al (Reference NPL4, cited by Applicants).

The instantly claimed compounds are disclosed. At page 3, 2<sup>nd</sup> column, see the compound of formula 3. At Table I, see compounds 23 and 45. The compounds are depicted below:



The claims are fully met when Ar is A1 or A2; a = 0 and 1; R and R5 together with CH<sub>2</sub>CH<sub>2</sub> form a piperazine ring; b, c, d, e, r, and s are 0; R<sup>1</sup>, R<sup>2</sup>, R<sup>3</sup>, R<sup>4</sup>, R<sup>a</sup>, R<sup>b</sup>, R<sup>c</sup>, R<sup>d</sup> are hydrogen; W is N; R<sup>7</sup> is -CN; X is S; R<sup>6</sup> is -Me.

8. Claims 2, 3, 5, 6, and 8-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The Information Disclosure Statements filed November 2, 2007 and December 17, 2007 have been considered.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna Northington Davis whose telephone number is 571-272-0682.

11. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*/Zinna Northington Davis/*  
**Zinna Northington Davis**  
**Primary Examiner**  
**Art Unit 1625**